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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,764	01/12/2004	Horst J. Bernhart	ZK524-03151	9624
27868	7590	08/09/2005	EXAMINER	
JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202			TON, ANABEL	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H-9A

Office Action Summary

Application No.

10/755,764

Applicant(s)

BERNHART ET AL.

Examiner

Anabel M. Ton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-28 is/are allowed.
- 6) ☒ Claim(s) 1,8-10 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 2-7,11 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,8-10,12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Usher et al (6,170,967) and further in view of Crane (6,746,325).

3. Usher discloses the claimed invention except for the recitation of a channel having at least one air-handling slot. Usher discloses a casing (23) disposed within a channel (18) having substantially curvilinear lower surface a liner extrusion abutting said curvilinear lower surface (21), a track head (26) positioned within the linear extrusion, a plurality of conductive strips extending through the track head ((figs 2-3). Crane discloses an air handling luminaire having a channel (20b) having at least one air handling slot (15,17) located in the upper surface of the channel, and ceiling brackets fastened to the side of the channels (24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement an air handling fixture as taught by the air handling luminaire of Crane into the device of Usher since as taught by Crane, air handling components, channels and vents in fluid communication with each other in a luminaire are purposeful for providing a light emitting structure with a cooling means to prevent burning of the illumination housing. With regards to claim 12,

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applicant has not defined the structure of the tilt and lock mechanism, it is assumed that it is a mechanism that is capable of tilting and locking. Usher discloses a channel (18, figs 1-3)) housing a tilt and lock mechanism (30,23, 26, fig 3, lamp can be tilted and held at a selected angle) having an upper portion and lower portion (13,29) the lower portion being slid ably adjustable though a pre selected arc within the channel (figs 3, 23, col. 4 lines 10-20). Crane discloses a luminaire with multiple air handling slots (15,17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement an air handling fixture as taught by the air handling luminaire of Crane into the device of Usher since as taught by Crane, air handling components, channels and vents in fluid communication with each other in a luminaire are purposeful for providing a light emitting structure with a cooling means to prevent burning of the illumination housing

- Said lower portion comprising a track head and a plurality of conductive strips (21,26);(Usher et al)
- A track light depending from said track head (14, Usher et al)
- Said track light being a pendant light (14);

Allowable Subject Matter

1. Claims 2-6,11,16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claims 17-28 are allowed.

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3. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited of record does not teach in combination the air handling light fixture having said channel having a protrusion on a vertical wall beneath said upper surface of said channel; a toggle lock having an upper portion spaced between said protrusion and said upper surface; said toggle lock having a lower portion positioned within said casing; a fastener extending upwardly through said linear extrusion, said casing and said toggle lock; an adapter slidably disposed between said casing curvilinear surface and said linear extension, the air handling channel having first and second retaining beads spaced underneath the upper surface of the channel a casing having a curvilinear lower surface suspended within the air handling channel, at least one light retaining component slidably abutting the curvilinear lower surface of the casing and being adjustable through an arcuate path.

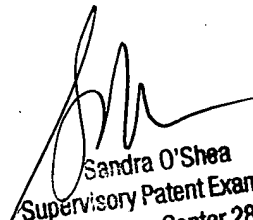
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875

AMT



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800